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ABSTRACT

This report summarizes provisions and highlights changes for the Individualized Education Program (IEP) within the Individuals with Disabilities Education Act (IDEA) Amendments of 1997. Also included are references from the two Congressional Committee Reports--those of the Senate Labor and Human Resources Committee and the House Committee on Education and the Workforce. An introductory section identifies changes in the overall context, including recognition that disability is a natural part of the human experience and there is a need to apply what has been learned in the last 20 years of research and experience. The report is divided into two major sections. Section 1 provides a comparison between IDEA as amended in 1990 and 1991 with the IDEA amendments of 1997 and the Committee Reports. The information is presented in tabular form with three columns showing, first, the IEP requirements prior to the 1997 amendments; second, the relevant section/s of the 1997 IDEA amendments; and, third, related information from reports of the Senate on Labor and Human Resources and the House Committee on Education and the Workforce. Section 2 compares IEP provisions within the new amendments with the current federal regulations related to the IEP and critical questions about the law's requirements. (DB)

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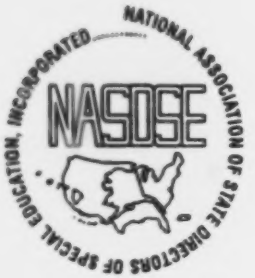
1997 IDEA Amendments



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EC 306169

Overview of the Individual Education Program (IEP) Provisions Within the Individuals With Disabilities Education Act (IDEA) Amendments of 1997

This document contains a summary of the IEP provisions within the IDEA Amendments of 1997. This summary highlights the changes from the law prior to the enactment of the IDEA Amendments of 1997. Also included within this summary are selected references from the Congressional Committee Reports (Senate Labor and Human Resources Committee and House Committee on Education and the Workforce).

It is important to review the IDEA Amendments of 1997 within the context and spirit of the total changes and scope of the law. The IDEA Amendments of 1997 have a significant emphasis upon achieving better results for children and youth with disabilities, access to general education curriculum, improved teaching and learning, and preparation for productive, independent, adult lives, to the maximum extent possible. Congress added several findings which lead to the purposes and content of the IDEA Amendments of 1997. These selected findings are in addition to those made earlier in IDEA and are as follows:

Title I, Section 601(c)

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1995, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

(4) However, the implementation of this Act has been impeded by low expectations, and insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

(5) Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by--

(A) having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible.

(B) strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

(C) coordinating this Act with other local educational service agency, State, and Federal school improvement efforts in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

(D) providing appropriate special education and related services and aids and supports in the regular classrooms to such children, whenever appropriate;

(E) supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them--

  (i) to meet developmental goals and, to the maximum extent possible, those challenging expectations that have been established for all children; and

  (ii) to be prepared to lead productive, independent, adult lives, to the maximum extent possible;

(F) providing incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs; and

(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results.

Because the IEP is the major underpinning of the IDEA, it must be developed, implemented, and evaluated within the context of the above and other Congressional findings that relate to flexibility, high standards, improved results, strengthened role of parents, and coordination with and access to general education and other programs, and a focus on teaching and learning while reducing unnecessary paperwork requirements.

The Congress provided the following purposes of the IDEA within Section 601(d):

Section 601(d):

(1)(A) to ensure that all children with disabilities have available to them a free appropriate pubic education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living.

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and
(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families.

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

State and local education agencies and parents are challenged to strengthen the IEP in order to meet the above intents and purposes of the IDEA Amendments of 1997. This document has been prepared as a quick reference to provide pertinent information about the IEP within the IDEA Amendments of 1997.

This document is divided into two major sections. Section I provides a comparison between the IDEA as amended in 1990 and 1991, with the new IDEA Amendments of 1997 and the Committee Reports. Provisions of the previous amendments related to the IEP are found in the left column, and the IEP provisions of the IDEA Amendments of 1997 are presented in the middle column. IEP references within the Senate and House Committee Reports are summarized in the right column.

Section II of this document compares IEP provisions within the new IDEA Amendments of 1997 with the current Federal Regulations related to the IEP, as well as portions of Appendix C, IEP Questions and Answers that are referenced as "must", "shall", or "is required" and have been interpreted as legally binding upon state and local educational agencies.

The reader is advised that the information in the table columns has, in some instances been summarized and/or paraphrased. Portions of the law have been omitted that do not pertain to the IEP. Therefore, the contents of this document should not be used as a substitute for the language of the law and/or regulation(s).

SECTION I

SUMMARY OF CHANGES RELATED TO THE INDIVIDUALIZED EDUCATION PROGRAM (IEP) CURRENT LAW AND IDEA AMENDMENTS OF 1997 AND SENATE/HOUSE COMMITTEE REPORTS

Individuals With Disabilities Education Act Amendments of 1990 Amendments of 1991	Individuals With Disabilities Education Act Amendments of 1997	Senate on Labor and Human Resources and the House Committee on Education and the Workforce Reports
Prior IDEA 1997	**1997 IDEA Amendments**	**Committee Reports**
Section 602(a) Definitions (18) The term `free appropriate public education' means special education and related services that--. (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 614(a)(5).	**Section 602 Definitions** (8) The term `free appropriate public education' means special education and related services that--. (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate (D) preschool, elementary, or secondary school (E) education in the State involved, and (F) are provided in conformity with the individualized education program required under section (614(d).	

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Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
Section 602(a) Definitions (20) The term 'individualized education program' means a written statement for each child with a disability developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of such child, and, whenever appropriate, the child.	**Section 602 Definitions** (11) The term individualized education program or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d). **Section 612(a)(4) State Eligibility - Individualized Education Program** (A) An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).	To assist in improved compliance with the IEP provisions, the Committee placed all provisions pertaining to the IEP, including the definitions of the IEP and the IEP Team, in sections 614(d). The definition of the Individualized Education Program includes all of the required elements of an IEP, beginning with a statement of a child's present levels of educational performance including how the child's disability affects the child's involvement and progress in the general education curriculum, or for a preschool child with a disability, how the child's disability affects the child's participation in appropriate activities. The IEP should also address the unique needs of the child that arise out of his or her disability that must be addressed in order for the child to progress in the general education curriculum, such as the need of a blind child to read Braille, or of a cognitively disabled child to receive transportation training (i.e., how to use public transportation). The Committee wishes to emphasize that, once a child has been identified as being eligible for special education, the connection between special education and related services and the child's opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications.

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Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
		This provision is intended to ensure that children's special education and related services are in addition to and are affected by the general education curriculum, not separate from it. The new emphasis on participation in the general education curriculum is not intended by the Committee to result in major expansions in the size of the IEP of dozens of pages of detailed goals and benchmarks or objectives in every curricular content standard or skill. The new focus is intended to produce attention to the accommodations and adjustments necessary for disabled children to access the general education curriculum and the special services which may be necessary for appropriate participation in particular areas of the curriculum due to the nature of the disability. Specific day to day adjustments in instructional methods and approaches that are made by either a regular or special education teacher to assist a disabled child to achieve his or her annual goals would not normally require action by the child's IEP team. However, if changes are contemplated in the child's measurable annual goals, benchmarks, or short term objectives, or in any of the services or program modifications, or other components described in the child's IEP, the LEA must ensure that the child's IEP team is reconvened in a timely manner to address those changes.

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
Section 613(a) State Plans (13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to -- (A) define the financial responsibility of each agency for providing children and youth with disabilities with free appropriate public education....	**Section 612(a) (12) Obligations Related to and Methods of Ensuring Services** **(A) Establishing Responsibility for Services--** The Chief Executive Officer or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following: (i) Agency Financial Responsibility- An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).	

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
	Section 614(d)(2) Requirement That Program Be In Effect (A) In General- At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).	
Section 614(a) LEA Application (5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, *an* individualized education program for each child with a disability (or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 1477(d) for each child with a disability aged 3 to 5, inclusive) at the beginning of each school year and will then review and, if appropriate, revise its provisions periodically, but not less than annually;	**Section 614(d)(2) Program for Children Aged 3 Through 5** (B) In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school year), an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is-- (i) consistent with State policy; and (ii) agreed to by the agency and the child's parents.	The bill requires that, at the beginning of every school year, an IEP be in effect for each child with a disability served by an LEA, a State agency, or an SEA. In the case of a child with a disability aged 3 through 5 (or at the discretion of the State educational agency, a 2-year old child with a disability who will turn 3 during the school year), an individualized family service plan that contains the requirements described in section 636, and that is developed in accordance with section 614, may serve as the child's IEP if using that plan as the IEP is consistent with State policy and agreed to by the agency and the child's parents.
	Section 613(a)(4) Educational Agency Eligibility - Permissive Use of Funds **(A) Services and Aids That Also Benefit Nondisabled Children** For the costs of special education and related services and supplementary aids	

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
	and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.	
Section 602(a)(20) IEP Contents (A) a statement of the present levels of educational performance of such child,	**Section 614(d)(1)(A) IEP Contents** (i) a statement of the child's present levels of educational performance, including- (I) how the child's disability affects the child's involvement and progress in the general curriculum; or (II) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;	
Section 602(a)(20) IEP Contents (B) a statement of annual goals, including short-term instructional objectives,	**Section 614(d)(1)(A) IEP Contents** (ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to-- (I) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and (II) meeting each of the child's other educational needs that result from the child's disability;	The bill requires that a child's IEP include a statement of measurable annual goals, including benchmarks or short-term objectives. The Committee views this requirement as crucial in helping parents and educators determine if the goals can reasonably be met during the year, and, as important, allow parents to be able to monitor their child's progress. The bill requires that annual goals included in a child's IEP relate to meeting the child's needs that result from the child's disability to enable to the child to be involved in and progress in the general education curriculum. This language

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
		should not be construed to be a basis for excluding a child with a disability who is unable to learn at the same level or rate as nondisabled children in an inclusive classroom or program. It is intended to require that the IEP's annual goals focus on how the child's needs resulting from his or her disability can be addressed so that the child can participate, at the individually appropriate level, in the general curriculum offered to all students.
Section 602(a)(20) IEP Contents (C) a statement of the specific educational services to be provided to such child,	**Section 614(d)(1)(A) IEP Contents** (iii) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child-- (I) to advance appropriately toward attaining the annual goals; (II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in extracurricular and other nonacademic activities; and (III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph.	As under current law, a child's IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child. The Committee intends that, while teaching and related services methodologies or approaches are an appropriate topic for discussion and consideration by the IEP team during IEP development or annual review, they are not expected to be written into the IEP. Furthermore, the Committee does not intend that changing particular methods or approaches necessitates an additional meeting of the IEP Team.
Section 602(a)(20) IEP Contents (C) ...and the extent that the child will be	**Section 614(d)(1)(A) IEP Contents** (iv) an explanation of the extent, if any,	The bill contains the presumption that children with disabilities are to be

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
able to participate in regular educational programs.	to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);	educated in regular classes. Therefore, the legislation requires that the IEP include an explanation of the extent, if any, to which a child with a disability will not participate with nondisabled children in the general education curriculum including extra-curricular and non-academic activities. Placement decisions are made on the basis of what each child needs. Every child is unique and so will be his or her needs. Nonetheless, when the decision is made to educate the child separately, an explanation of that decision will need, at a minimum, to be stated as part of the child's IEP.
	Section 614(d)(1)(A) IEP Contents **Assessment Modifications** (v)(I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and	Children with disabilities must be included in State and district-wide assessments of student progress with individual modifications and accommodations as needed. Thus, the bill requires that the IEP include a statement of any individual modifications in the administration of State and district-wide assessments.
	Section 614(d)(1)(A) IEP Contents (v)(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of-- (aa) why that assessment is not appropriate for the child; and (bb) how the child will be assessed;	The Committee knows that excluding children with disabilities from these assessments severely limits and in some cases prevents children with disabilities through no fault of their own, from continuing on to post-secondary education. The bill requires that if the IEP team determines that that child's performance cannot appropriately be assessed with the regular education assessments, even with individual

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
		modification, the IEP must include a statement of why the assessment is not appropriate and alternative assessments must be made available. The Committee reaffirms the existing Federal law requirement that children with disabilities participate in State and district-wide assessments. This will assist parents in judging if their child is improving with regard to his or her academic achievement just as parents of nondisabled children do.
Section 602(a)(20) IEP Contents: (E) the projected date for initiation and anticipated duration of such services,	**Section 614(d)(1)(A) IEP Contents** (vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;	The location where special education and related services will be provided to a child influences decisions about the nature and amount of these services and when they should be provided to a child. For example, the appropriate place for the related service may be the regular classroom, so that the child does not have to choose between a needed service and the regular educational program. For this reason, in the bill the Committee has added ``location'' to the provision in the IEP that includes ``the projected date for the beginning of services and modifications, and the anticipated frequency, location, and duration of those services.
Section 602(a)(20) IEP Contents: (D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency responsibilities or	**Section 614(d)(1)(A)** **IEP Contents - Transition** (vii) (I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's	The bill requires that the IEP include, beginning at age 14 "a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced placement courses or a vocational

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
linkages (or both) before the student leaves the school setting, and	courses of study (such as participation in advanced-placement courses or a vocational education program); (II) beginning at age 16 (or younger, if determined appropriate by the IEP. Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and	education program)." The purpose of this requirement is to focus attention on how the child's educational program can be planned to help the child make a successful transition to his or her goals for life after secondary school. This provision is designed to augment, and not replace, the separate transition services requirement, under which children with disabilities beginning no later than age sixteen receive transition services including instruction, community experiences, the development of employment and other post-school objectives and, when appropriate, independent living skills and functional vocational evaluation. For example, for a child whose transition goal is a job, a transition service could be teaching the child how to get to the job site on public transportation.
	Section 614(d)(1)(A)IEP Contents - Age of Majority (vii)(III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m); and	Current law is not clear on what is required when a child with a disability attains the age of majority. In order to clarify the situation, the IEP definition in the bill includes a statement that the child has been informed of his or her rights under part B, if any, that will transfer to the child when he or she attains the age of majority.
Section 602(a)(20) IEP Contents (F) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional	**Section 602(11): IEP contents Measurement of Progress** (viii) a statement of-- (I) how the child's progress toward the	

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
objectives are being achieved.	annual goals described in clause (ii) will be measured; and (II) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of-- (aa) their child's progress toward the annual goals described in clause (ii); and (bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.	
Section 613(a) State Plan (15) set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under part H who will participate in preschool programs assisted under this part, including a method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday.	**Section 612(a) Transition From Part C to Preschool Programs** (9) Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).	
Section 601(a) Definitions 20) The term 'individualized education program" means a written statement for each child with a	**Section 614(d)(1)(B) Individualized Education Program Team** The term individualized education	The bill's definition of the Individualized Education Program [team] includes...a representative of the local educational

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
disability developed in any meeting by a representative of the local educational agency or an intermediate educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of such child, and, whenever appropriate, such child....	program team' or 'IEP Team' means a group of individuals composed of-- (i) the parents of a child with a disability; (ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment); (iii) at least one special education teacher, or where appropriate, at least one special education provider of such child; (iv) a representative of the local educational agency who-- (I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (II) is knowledgeable about the general curriculum; and (III) is knowledgeable about the availability of resources of the local educational agency; (v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi); (vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (vii) whenever appropriate, the child with a disability.	agency who is...(b) knowledgeable about the general curriculum; and (c) knowledgeable about the availability of resources of the local educational agency; an individual who can interpret the instructional implications of evaluation results, who may be a member of the team; at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and whenever appropriate, the child with a disability. Related services personnel should be included on the team when a particular related service will be discussed at the request of a child's parents or the school. Such personnel can include personnel knowledgeable about services that are not strictly special education services, such as specialists in curriculum content areas such as reading. Furthermore, the Committee recognizes that there are situations that merit the presence of a licensed registered school nurse on the IEP team. The Committee also recognizes that schools sometimes are assumed to be responsible for all health-care costs connected to a child's participation in school. The Committee wishes to encourage, to the greatest extent practicable and when appropriate, the participation of a licensed registered school nurse on the IEP team to help define and make decisions about how to safely address a child's educationally

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
		related health needs.
	Section 614(d)(3) Requirement With Respect to Regular Classroom Teacher (C) The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).	The bill's definition of the Individualized Education Program [team] includes the parents of a child with a disability; at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment); at least one special education teacher, or where appropriate, at least one special education provider of such child; a representative of the local educational agency who is (a) qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; Very often, regular education teachers play a central role in the education of children with disabilities. In that regard the bill provides that regular education teachers, participate on the IEP team, but this provision is to be construed in light of the bill's proviso that the regular education teacher, to the extent appropriate, participate in the development of the IEP of the child. The Committee recognizes the reasonable concern that the provision including the regular education teacher might create an obligation that the teacher participate in all aspects of the IEP team's work. The Committee does not intend that to be the case and only intends it to be the extent appropriate. The Committee wishes to emphasize that the "support for school

Prior IDEA 1997	1997 IDEA Amendments	Committee Reports
		personnel, that is stated in the child's IEP, is that support that will assist them to help a particular child progress in the general education curriculum.
	Section 614(d) Failure to Meet Transition Objectives (5) If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.	With regard to transition services in IEPs, the bill provides that if an agency, other than the LEA, participating in the child's education fails to provide the transition services described in the child's IEP, the LEA must reconvene the IEP team to identify alternative strategies to meet the child's transition objectives.
	Section 614(f) Educational Placements—Each local educational or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions about the educational placement of their child.	The bill's definition of the Individualized Education Program team includes the parents of a child with a disability.... The provisions enhance the importance of parents of children with disabilities in the decision making that affects their child's education. Section 614 requires that each LEA or State educational agency ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child. The Committee expects that the majority of placement decisions will be made by the IEP team, but in those unique cases where it is not, the Committee expects parents to be involved in the group making the decision.

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		In developing a child's IEP, the IEP team is required to consider the strengths of the child and the concerns of the parents for enhancing the education of their child. The IEP process is an opportunity for schools and parents to develop a common frame of reference about problems and potential problems that may remove the need to proceed to due process and instead foster a partnership to resolve problems.
	Section 614(b) Conduct of Evaluation (2) In conducting the evaluation, the local education agency shall-- A. use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum, or, for preschool children, to participate in appropriate activities.	
Section 613(a) State Plans (11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with	**Section 614(c) Additional Requirements for Evaluation and Reevaluations** **Review of Existing Evaluation Data**	

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disabilities (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 617.	(1) As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall-- (A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observation; and (B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine-- (i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability; (ii) the present levels of performance and educational needs of the child; (iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the	

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	individualized education program of the child and to participate, as appropriate, in the general classroom. **Section 614(c) Additional Requirements for Evaluation and Reevaluations** **(4) Requirements if Additional Data are not Needed.**—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, the local education agency-- A. shall notify the child's parents of- (i) that determination and the reasons for it; and (ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability.	
	Section 614(d)(4)Review and Revision of IEP (A) In General- The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team-- (i) reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and (ii) revises the IEP as appropriate to address-- (I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;	Additionally, the Committee is aware of, and endorses, the provision in section 300.350 of the current regulations relating to personal accountability. That regulation provides that each public agency must provide special education and related services to a child with a disability in accordance with an IEP. However, part B does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives.

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	(II) the results of any reevaluation conducted under this section; (III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B); (IV) the child's anticipated needs; or (V) other matters.	
	Section 612(a) State Eligibility Individualized Education Program (4) An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).	
	Title II, Section 201(a)(2) - Effective Dates Individualized Education Programs and Comprehensive Systems of Personnel Development (C) Section 618 of the Individuals With Disabilities education Act, as in effect on the day before the date of the enactment of this Act, and the provisions of parts A and B of the Individuals With Disabilities Education Act relating to individualized education programs and the State's comprehensive system of personnel development, as so in effect, shall remain in effect until July l, 1998.	
	Section 614(d)(3)(B) Development of IEP	

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	(A) In General--In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider— (i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and (ii) the results of the initial evaluation or most recent evaluation of the child.	
	Section 614(d)(3) Consideration of Special Factors (B) The IEP Team shall-- (i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions strategies, and supports to address that behavior; (ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP; (iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;	In developing a child's IEP, the bill requires that the IEP team consider the strengths of the child and the concerns of the parents for enhancing the education of their child; and the results of the initial evaluation or most recent evaluation of the child. In addition, the Committee believes that a number of considerations are essential to the process of creating a child's IEP. The purpose of the IEP is to tailor the education to the child; not tailor the child to the education. If the child could fit into the school's general education program without assistance, special education would not be necessary. The bill provides that, in the case of a child whose behavior impedes the learning of the child or others, the IEP team, as appropriate, shall consider strategies, including positive behavior interventions strategies and supports, to address that behavior. Similarly, in the case of a child with limited English proficiency, the IEP team is to consider the language needs of

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	(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities or direct instruction in the child's language and communication mode; and (v) consider whether the child requires assistive technology devices and services.	the child as such needs relate to the child's IEP. In the case of a child who is blind or visually impaired, the IEP team must provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child. The team also is to consider the communication needs of the child in order to ensure that local educational agencies better understand the unique needs of children who are deaf or hard of hearing. Section 614(d)(3)(B)(iv) includes special factors that must be considered in developing IEP's for these children. The policy included in the bill provides that, in the case of the child who is deaf or hard of hearing, the IEP team must consider the language and communication needs of the child; opportunities for direct communication with peers and professional personnel in the child's language and communication mode; the child's academic level; and the child's full range of needs, including the child's social, emotional, and cultural needs and opportunities for direct instruction in the child's language and communication mode. The Committee also intends that this provision will be implemented in a

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		manner consistent with the policy guidance entitled ``Deaf Students Education Services," published in the Federal Register (57 Fed. Reg. 49274, October 30, 1992) by the U.S. Department of Education. The bill further requires that the IEP team consider the provision of assistive technology devices and services when developing the child's IEP.
		An IEP report card could also be made more useful by including checkboxes or equivalent options that enable the parents and the special educator to review and judge the performance of the child. An example would be to state a goal or benchmark on the IEP report card and rank it on a multi-point continuum. The goal might be, ``Ted will demonstrate effective literal comprehension." The ranking system would then state the following, as indicated by a checkbox: No progress; some progress; good progress; almost complete; completed. Of course, these concepts would be used by the school and the IEP team when appropriate. This example is not intended to indicate the Committee's preference for a single means of compliance with this requirement.
	Section 614(d)(4)(B) Requirement With Respect to Regular Education Teacher	

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	TEACHER- The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.	
Section 613(a)(4)(B) State Plans (B) that -- (i) children with disabilities in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State; and	**Section 612(a)10)(B)(i) Children Placed in, or Referred to Public Schools by Public Agencies** (i) In General- Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.	
	Section 612(a)(10)(C) Payment for Education of Children Enrolled in Private Schools Without Consent or Referral by the Public Agency. (i) In General— Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency	

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	made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility. (ii) Reimbursement for Private School Placement--If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment. (iii) Limitation on Reimbursement- The cost of reimbursement described in clause (ii) may be reduced or denied-- (I) if-- (aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or (bb) 10 business days (including any holidays that occur on a business day)	

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	prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa); (II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or (III) upon a judicial finding of unreasonableness with respect to actions taken by the parents. (iv) Exception- Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if-- (I) the parent is illiterate and cannot write in English; (II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child; (III) the school prevented the parent from providing such notice; or (IV) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I).	
	Section 614(d)(6) Children With Disabilities in Adult Prisons	

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	(A) In General.--The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons: (i) The requirements contained in section 612(a)(17) and paragraph (1)(A)(v) of this subsection (relating to participation of children with disabilities in general assessments). (ii) The requirements of subclauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison. (B) Additional Requirement- If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.	
	Section 614 Construction (e) Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is	The bill also clarifies obligations in two areas. First, nothing in section 614 may be construed to require the IEP Team to include information under one component of a child's IEP that is already

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	already contained under another component of such IEP.	contained in another component
	Section 613 Disciplinary Information (j) The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.	
	Section 612(a)(22)(A) Suspension and Expulsion Rates **Section 612(a)(22(B) Review and Revision of Policies** (A) In General.—The State educational agency examines data to determine if significant discrepancies	

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	are occurring in the rate of long-term suspensions and expulsions of children with disabilities.... (B) Review and Revision of Policies— If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its polices, procedures, and practices relating t the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.	
	Section 615(k) Placement in Alternative Educational Setting (1) Authority of School Personnel- (A) School personnel under this section may order a change in the placement of a child with a disability-- (i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and (ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if-- (I) the child carries a weapon to school or to a school function under the jurisdiction of a State or a local	

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	educational agency; or (II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency. (B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)-- (i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or (ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior. (2) Authority of Hearing Officer- A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer-- (A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others; (B) considers the appropriateness of the	

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	child's current placement; (C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and (D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B). (3) Determination of Setting- (A) In General- The alternative educational setting described in paragraph (1)(A)(ii) shall be determined by the IEP Team. (B) Additional Requirement- Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall-- (i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and (ii) include services and modifications designed to address the behavior described in paragraph (1) or paragraph (2) so that it does not recur. (4) Manifestation Review- (A) In General- If a disciplinary action is contemplated as described in paragraph (1) or paragraph (2) for a	

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	behavior of a child with a disability described in either of those paragraphs, or if a disciplinary action involving a change of placement for more than 10 days is contemplated for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the local educational agency that applies to all children-- (i) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and (ii) immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action. (B) Individuals to Carry out Review- A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel. (C) Conduct of Review- In carrying out a review described in subparagraph (A), the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team-- (i) first considers, in terms of the behavior subject to disciplinary action, all relevant information, including-- (I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of	

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	the child; (II) observations of the child; and (III) the child's IEP and placement; and (ii) then determines that-- (I) in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement; (II) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and (III) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action. (5) Determination that Behavior was not Manifestation of Disability- (A) In General- If the result of the review described in paragraph (4) is a determination, consistent with paragraph (4)(C), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in section 612(a)(1). (B) Additional Requirement- If the	

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	public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. 6) Parent Appeal- (A) In General- (i) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing. (ii) The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by a parent. (B) Review of Decision- (i) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability consistent with the requirements of paragraph (4)(C). (ii) In reviewing a decision under paragraph (1)(A)(ii) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards set out in paragraph (2). (7) Placement During Appeals- (A) In General- When a parent requests	

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	a hearing regarding a disciplinary action described in paragraph (1)(A)(ii) or paragraph (2) to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(A)(ii) or paragraph (2), whichever occurs first, unless the parent and the State or local educational agency agree otherwise. (B) Current Placement- If a child is placed in an interim alternative educational setting pursuant to paragraph (1)(A)(ii) or paragraph (2) and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in subparagraph (C). (C) Expedited Hearing- (i) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the local educational agency may request an expedited hearing. (ii) In determining whether the child	

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	may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards set out in paragraph (2).	
	Section 613(f)(2)(B) Coordinated Services System (B) Service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C and with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation, title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income).	
	Section 613(g((3) School-based Improvement Plan Requirements— A school-based improvement plan described in paragraph (1) shall – (D ensure that all children with disabilities receive the services described in the individualized education programs of such children.	
	Section 673(b)(1) and (2)(A) Personnel Preparation (1) In General- In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit	

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	children with low-incidence disabilities. (2) Authorized Activities- Activities that may be carried out under this subsection include activities such as the following: (A) Preparing persons who-- (i) have prior training in educational and other related service fields; and (ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 636.	
	Section 682 Parent Training and Information Center (a) Program Authorized—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section. (b) Required Activities—Each parent trainer and information center that receives assistance under this section shall-- (4) assist parents to-- (C) participate in decisionmaking processes and the development of individualized education programs under part B and	

	individualized family service plans under part C;	
Section 615(e) (4)(A) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy. (B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys fees as part of the costs to the parents or guardian of a child or youth with a disability who is the prevailing party. (C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection. (D) No award of attorneys fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if— (i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins; (ii) the offer is not accepted within ten days; and (iii) the court or administrative officer finds that	**Section 615(I)(3) Award of attorneys' Fees** (D) Prohibition of Fees and Related Costs for Certain Services. (i) attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if – (I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins; (II) the offer is not accepted within 10 days; and (III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. (ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e) that is conducted prior to the filing of a complaint under	The Committee believes that the IEP process should be devoted to determining the needs of the child and planning for the child's education with parents and school personnel. To that end, the bill specifically excludes the payment of attorneys' fees for attorney participation in IEP meetings, unless such meetings are convened as a result of an administrative proceeding or judicial action.

the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.	subsection (b)(6) or (k) of this section.	
Section 607 Requirements for Prescribing Regulations **(b) Lessening of procedural or substantive protections as in effect on July 20, 1983.** The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act which would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timeliness, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation	**Section 607 Requirements for Prescribing Regulations.** **(b) Protections Provided to Children** The Secretary may not implement, or publish in final form any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation. (c) Policy Letters and Statements.— The Secretary may not through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this part without following the requirement of section 553 of title 5, United States Code.	

SECTION II

COMPARISON OF IEP PROVISIONS WITHIN THE NEW IDEA AMENDMENTS OF 1997 WITH CURRENT IEP FEDERAL REGULATIONS, INCLUDING APPENDIX C

IDEA Current Regulations and Appendix C - Questions and Answers	IDEA Amendments of 1997
Reg. Sec. 300 Free appropriate public education. (8) As used in this part, the term "free appropriate public education" means special education and related services that (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an IEP that meets the requirements of Reg. Sec. 300.340-300.350.	**Section 602 Definitions** (8) The term `free appropriate public education' means special education and related services that-- (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and D) are provided in conformity with the individualized education program required under section 614(d)
Reg. Sec. 300.130 Individualized education programs (a) Each State plan must include information that shows that each public agency in the State maintains records of the IEP for each child with disabilities, and each public agency establishes, reviews, and revises each program as provided in Sections 300.340-300.350. **Reg. Sec. 300.340 Definitions.** (a) As used in this part, the term "individualized education program" means a written statement for a child with a disability that is developed and implemented in accordance with Regs. Secs. 300.341-300.350.	**Section 602 Definitions** (11) Individualized Education Program-- The term individualized education program' or `IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d). **Section 612 (a) Individualized Education Program** (4) An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

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Reg. Sec. 300.152 Interagency agreements (a) Each State plan must set forth policies and procedures for developing and implementing interagency agreements between (1) The SEA; and (2) All other State and local agencies that provide or pay for services required under this part for children with disabilities. (b) The policies and procedures referred to in paragraph (a) of this section must (1) Describe the role that each of those agencies plays in providing or paying for services required under this part for children with disabilities; and (2) Provide for the development and implementation of interagency agreements that (i) Define the financial responsibility of each agency for providing children with disabilities with FAPE; (ii) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and (iii) Establish procedures under which LEAs may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreements or otherwise implement the provisions of the agreements.	**Section 612(a)(12)Obligations Related to and Methods of Ensuring Services** (A) Establishing Responsibility for Services-- The Chief Executive Officer or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following: (i) Agency Financial Responsibility--An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).
Reg. Sec. 300.342 When individualized education programs must be in effect. (a) At the beginning of each school year, each public agency shall have in effect an IEP for every child with a disability who is receiving special education from that agency. (b) An IEP must (1) Be in effect before special education and related services are provided to a child; and (2) Be implemented as soon as possible following the meetings under Reg. Sec. 300.343.	**Section 614(d)(2) Requirement That Program Be In Effect** A) In General.-- At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A). **Section 614(d)(2) Program for Child Aged 3 Through 5** (B) In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school

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Note: Under paragraph (b)(2) of this section it is expected that the IEP of a child with a disability will be implemented immediately following the meetings under Reg. Sec. 300.343. An exception to this would be (1) when the meetings occur during the summer or a vacation period, or (2) where there are circumstances that require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the child. **Appendix C - Questions and Answers** **9. Must IEPs be reviewed or revised at the beginning of each school year?** No. The basic requirement in the regulations is that IEPs must be in effect at the beginning of each school year. Meetings must be conducted at least once each year to review and, if necessary, revise the IEP of each child with a disability. However, the meetings may be held anytime during the year, including (1) at the end of the school year, (2) during the summer, before the new school year begins, or (3) on the anniversary date of the last IEP meeting on the child.	year), an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is-- (i) consistent with State policy; and (ii) agreed to by the agency and the child's parents.
	Section 613(a)(4)(A) Educational Agency Eligibility - Permissive Use of Funds - Services and Aids That Also Benefit Nondisabled Children For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

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Reg. Sec. 300.346 Content of individualized education program (a) General. ___ The IEP for each child must include (1) A statement of the child's present levels of educational performance;	**Section 614(d)(1)(A) IEP Contents**: (i) a statement of the child's present levels of educational performance, including-- (I) how the child's disability affects the child's involvement and progress in the general curriculum; or (II) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
Reg. Sec. 300.346 Content of individualized education program (2) A statement of annual goals, including short-term instructional objectives; **Appendix C - Questions and Answers** **37. Why are goals and objectives required in the IEP?** The statutory requirements for including annual goals and short term objectives (Section 602(20)(B)), and for having at least an annual review of the IEP of a child with a disability (Section 614(a)(5)), provide a mechanism for determining (1) whether the anticipated outcomes for the child are being met (i.e., whether the child is progressing in the special education program) and (2) whether the placement and services are appropriate to the child's special learning needs. In effect, these requirements provide a way for the child's teacher(s) and parents to be able to track the child's progress in special education. However, the goals and objectives in the IEP are not intended to be as specific as the goals and objectives that are normally found in daily, weekly, or monthly instructional plans.	**Section 614(d)(1)(A) IEP Contents**: (ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to-- (I) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and (II) meeting each of the child's other educational needs that result from the child's disability;
Reg. Sec. 300.346 Content of individualized education program (3) A statement of the specific special education and related services to be provided to the child.	**Section 614(d)(1)(A) IEP Contents**: (iii) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child--

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Appendix C - Questions and Answers **51. Must the IEP specify the amount of services or may it simply list the services to be provided?** The amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to parents and other IEP team members. The amount of time to be committed to each of the various services to be provided must be (1) appropriate to that specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.	(I) to advance appropriately toward attaining the annual goals; (II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in extracurricular and other nonacademic activities; and (III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;
Reg. Sec. 300.346 Content of individualized education program (3) .... and the extent that the child will be able to participate in regular educational programs; **Appendix C - Questions and Answers** **52. Must the IEP of a child with a disability indicate the extent to which the child will be educated in the regular educational program?** Yes. Section 300.346(c) provides that the IEP for each child with a disability must include a "statement of...the extent that the child will be able to participate in regular educational programs." One way of meeting this requirement is to indicate the percent of time the child will be spending in the regular education program with nondisabled students. Another way is to list the specific regular education classes the child will be attending. **Appendix C - Questions and Answers** **48. If modifications are necessary for a child with a disability to participate in a regular education program, must they be included in the IEP?** Yes. If modifications (supplementary aids and services) to the	**Section 614(d)(1)(A) IEP Contents** (iv) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);

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regular education program are necessary to ensure the child's participation in that program, those modifications must be described in the child's IEP (e.g., for a child with a hearing impairment, special seating arrangements, or the provision of assignments in writing). This applies to any regular education program in which the student may participate, including physical education, art, music, and vocational education.	
	Section 614(d)(1)(A) IEP Contents (v)(I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and
	Section 614(d)(1)(A) IEP Contents (v)(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of-- (aa) why that assessment is not appropriate for the child; and (bb) how the child will be assessed;
Reg. Sec. 300.346 Content of individualized education program (4) The projected dates for initiation of services and the anticipated duration of the services; and	**Section 614(d)(1)(A) IEP Contents** (vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;
Reg. Sec. 300.346(b) Transition services. (1) The IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate), must include a statement	**Section 614(d)(1)(A) IEP Contents -** (vii) (I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable

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of the needed transition services as defined in Reg. Sec. 300.18, including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting. (2) If the IEP team determines that services are not needed in one or more of the areas specified in Reg. Sec. 300.18(b)(2)(i) through (b)(2)(iii), the IEP must include a statement to that effect and the basis upon which the determination was made. Note 1: The legislative history of the transition services provisions of the Act suggests that the statement of needed transition services referred to in paragraph (b) of this section should include a commitment by any participating agency to meet any financial responsibility it may have in the provision of transition services. Note 2: With respect to the provisions of paragraph (b) of this section, it is generally expected that the statement of needed transition services will include the areas listed in Reg. Sec. 300.18(b)(2)(I) through (b)(2)(iii). If the IEP team determines that services are not needed in one of those areas, the public agency must implement the requirements in paragraph (b)(2). Since it is a part of the IEP, the IEP team must reconsider its determination at least annually. Note 3: Section 602(a)(20) of the Act provides that IEPs must include a statement of needed transition services for students beginning no later than age 16, but permits transition services to students below age 16 (i.e., "...and, when determined appropriate for the individual, beginning at age 14 or younger."). Although the statute does not mandate transition services for all students beginning at age 14 or younger, the provision of these services could have a significantly positive effect on the employment and independent living outcomes for many of these students in the	components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program); (II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

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future, especially for students who are likely to drop out before age 16. With respect to the provision of transition services to students below age 16, the Report of the House Committee on Education and Labor on Pub. L. 101-476 includes the following statement: "Although this language leaves the final determination of when to initiate transition services for students under age 16 to the IEP process, it nevertheless makes clear that Congress expects consideration to be given to the need for transition services for some students by age 14 or younger. The Committee encourages that approach because of their concern that age 16 may be too late for many students, particularly those at risk of dropping out of school and those with the most severe disabilities. Even for those students who stay in school until age 18, many will need more than two years of transitional services. Students with disabilities are now dropping out of school before age 16, feeling that the education system has little to offer them. Initiating services at a younger age will be critical."	
	Section 614(d)(1)(A) IEP Contents (vii) (III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m);
Reg. Sec. 300.346 Content of individualized education program (5) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.	**Section 602(11): IEP Contents** (viii) a statement of-- (I) how the child's progress toward the annual goals described in clause (ii) will be measured; and (II) how the child's parents will be regularly informed (by such

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Appendix C - Questions and Answers **34. Must IEPs include specific "checkpoint intervals" for parents to confer with teachers and to revise or update their children's IEPs?** No. The IEP of a child with a disability is not required to include specific checkpoint intervals (i.e., meeting dates) for reviewing the child's progress. However, in individual situations, specific meeting dates could be designated in the IEP, if the parents and school personnel believe that it would be helpful to do so.	means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of-- (aa) their child's progress toward the annual goals described in clause (ii); and (bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
Reg. Sec. 300.154 Transition of individuals from Part H to Part B. Each State plan must set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program under Part H of the Act who will participate in preschool programs assisted under this part, including a method of ensuring that when a child turns age 3 an IEP, or, if consistent with sections 614(a)(5) and 677(d) of the Act, an individualized family service plan, has been developed and implemented by the child's third birthday.	**Section 612(a) Transition From Part C to Preschool Programs** (9) Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).
Reg. Sec. 300.344 Participants in meetings (a) General. The public agency shall ensure that each meeting includes the following participants: (1) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education. (2) The child's teacher.	**Section 614(d)(1) Individualized Education Program Team** (B) The term individualized education program team' or `IEP Team' means a group of individuals composed of-- (i) the parents of a child with a disability; (ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

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(3) One or both of the child's parents, subject to Reg. Sec. 300.345. (4) The child, if appropriate. (5) Other individuals at the discretion of the parent or agency. (b) Evaluation personnel. For a child with a disability who has been evaluated for the first time, the public agency shall ensure (1) That a member of the evaluation team participates in the meeting; or (2) That the representative of the public agency, the child's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation. (c) Transition services participants. (1) If a purpose of the meeting is the consideration of transition services for a student, the public agency shall invite (i) The student; and (ii) A representative of any other agency that is likely to be responsible for providing or paying for transition services. (2) If the student does not attend, the public agency shall take other steps to ensure that the student's preferences and interests are considered; and (3) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services. Note 2: Under paragraph (c) of this section, the public agency is required to invite each student to participate in his or her IEP meeting, if a purpose of the meeting is the consideration of transition services for the student. For all students who are 16 years of age or older, one of the purposes of the annual meeting will always be the planning of transition services, since transition services are a required component of the IEP for these students.	(iii) at least one special education teacher, or where appropriate, at least one special education provider of such child; (iv) a representative of the local educational agency who-- (I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (II) is knowledgeable about the general curriculum; and (III) is knowledgeable about the availability of resources of the local educational agency; (v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi); (vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (vii) whenever appropriate, the child with a disability.

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For a student younger than age 16, if transition services are initially discussed at a meeting that does not include the student, the public agency is responsible for ensuring that, before a decision about transition services for the student is made, a subsequent IEP meeting is conducted for that purpose, and the student is invited to the meeting.	
Appendix C - Questions and Answers: 17. If a child with a disability in high school attends several regular classes, must all of the child's regular teachers attend the IEP meeting? No. Only one teacher must attend. However, at the option of the LEA, additional teachers of the child may attend.	**Section 614(d)(3) Requirement With Respect to Regular Education Teacher** (C) The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).
Reg. Sec. 300.345 Parent participation. (a) Each public agency shall take steps to ensure that one or both of the parents of the child with a disability are present at each meeting or are afforded the opportunity to participate, including— (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. (b) (1) The notice under paragraph (a)(1) of this section must indicate the purpose, time, and location of the meeting and who will be in attendance; (2) If a purpose of the meeting is the consideration of transition services for a student, the notice must also (i) Indicate this purpose; (ii) Indicate that the agency will invite the student; and (iii) Identify any other agency that will be invited to send a	**Section 614(d)(1) Individualized Program Team** (B) The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of- "(1) the parents of a child with a disability **Section 614(f) Educational Placements** Every local educational or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions about the educational placement of their child.

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representative. (c) If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls. (d) A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place such as (1) Detailed records of telephone calls made or attempted and the results of those calls; (2) Copies of correspondence sent to the parents and any responses received; and (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits. (e) The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. (f) The public agency shall give the parent, on request, a copy of the IEP. Note: The notice in paragraph (a) could also inform parents that they may bring other people to the meeting. As indicated in paragraph (c), the procedure used to notify parents (whether oral or written or both) is left to the discretion of the agency, but the agency must keep a record of its efforts to contact parents. **Appendix C - Questions and Answers** **26. What is the role of the parents at an IEP meeting?** The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the child's IEP. This is an active role in which the parents (1) participate in the discussion about the child's need for	

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special education and related services, and (2) join with the other participants in deciding what services the agency will provide to the child. **Appendix C - Questions and Answers** **27. What is the role of a surrogate parent at an IEP meeting?** A surrogate parent is a person appointed to represent the interests of a child with a disability in the educational decision-making process when that child has no other parent representation. The surrogate has all of the rights and responsibilities of a parent under Part B. Thus, the surrogate parent is entitled to (1) participate in the child's IEP meeting, (2) see the child's education records, and (3) receive notice, grant consent, and invoke due process to resolve differences. **Appendix C - Questions and Answers** **28. Must the public agency let the parent know who will be at the IEP meeting?** Yes. In notifying parents about the meeting the agency "must indicate the purpose, time, and location of the meeting, and who will be in attendance. (Sec. 300.345(b), emphasis added.) If possible, the agency should give the name and position of each person who will attend. In addition, the agency should inform the parents of their right to bring other participants to the meeting. **Appendix C - Questions and Answers** **31. Do parents have the right to a copy of their child's IEP?** Yes. Section 300.345(f) states that the public agency shall give the parent, on request, a copy of the IEP. In order that parents may know about this provision, it is recommended that they be informed about it at the IEP meeting and/or receive a copy of the IEP itself within a reasonable time following the meeting.	

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	Section 614(b) Conduct of Evaluation (2) In conducting the evaluation, the local education agency shall-- (A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities.
Reg. Sec. 300.533 Placement procedures. (a) In interpreting evaluation data and in making placement decisions, each public agency shall (1) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; (2) Ensure that information obtained from all of these sources is documented and carefully considered; (3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (4) Ensure that the placement decision is made in conformity with the LRE rules in Regs. Secs. 300.550-300.554. (b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Regs. Secs. 300.340-300.350. Note: Paragraph (a)(1) of this section includes a list of examples of sources that may be used by a public agency in making placement	**Section 614(c) Additional Requirements for Evaluation and Reevaluations** **Review of Existing Evaluation Data** (1) As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall-- (A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers' observation; and (B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine-- (i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability; (ii) the present levels of performance and educational needs of the child; (iii) whether the child needs special education and related

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decisions. The agency would not have to use all the sources in every instance. The point of the requirement is to ensure that more than one source is used in interpreting evaluation data and in making placement decisions. For example, while all of the named sources would have to be used for a child whose suspected disability is mental retardation, they would not be necessary for certain other children with disabilities, such as a child who has a severe articulation impairment as his primary disability. For such a child, the speech-language pathologist, in complying with the multiple source requirement, might use (1) a standardized test of articulation, and (2) observation of the child's articulation behavior in conversational speech.	services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum. **Section 614(c) Additional Requirements for Evaluation and Reevaluations** **(4) Requirements if Additional Data are not Needed** If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, the local education agency— (A) shall notify the child's parents of- (i) that determination and the reasons for it; and (ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability; and (B) shall not be required to conduct such an assessment unless requested to by the child's parents.
Reg. Sec. 300.343 Meetings (a) General. Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability (or, if consistent with State policy and at the discretion of the LEA, and with the concurrence of the parents, an individualized family service plan described in section 677(d) of the Act for each child with a disability, aged 3 through 5).	**Section 614(d)(4) Review and Revision of IEP** (A) In General- The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team-- (i) reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and (ii) revises the IEP as appropriate to address-- (I) any lack of expected progress toward the annual goals and in

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(b) [Reserved] (c) Timeline. A meeting to develop an IEP for a child must be held within 30 calendar days of a determination that the child needs special education and related services. d) Review. Each public agency shall initiate and conduct meetings to review each child's IEP periodically and, if appropriate, revise its provisions. A meeting must be held for this purpose at least once a year. Note: The date on which agencies must have IEPs in effect is specified in Reg. Sec. 300.342 (the beginning of each school year). However, except for new children with disabilities (i.e., those evaluated and determined to need special education and related services for the first time), the timing of meetings to develop, review, and revise IEPs is left to the discretion of each agency. In order to have IEPs in effect at the beginning of the school year, agencies could hold meetings either at the end of the preceding school year or during the summer prior to the next school year. Meetings may be held any time throughout the year, as long as IEPs are in effect at the beginning of each school year. The statute requires agencies to hold a meeting at least once each year in order to review and, if appropriate, revise each child's IEP. The timing of those meetings could be on the anniversary date of the child's last IEP meeting, but this is left to the discretion of the agency. **Appendix C - Questions and Answers** **10. How frequently must IEP meetings be held and how long should they be?** Section 614(a)(5) of the Act provides that each public agency must hold meetings periodically, but not less than annually, to review each child's IEP and, if appropriate, revise its provisions. The	the general curriculum, where appropriate; (II) the results of any reevaluation conducted under this section; (III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B); (IV) the child's anticipated needs; or (V) other matters.

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legislative history of the Act makes it clear that there should be as many meetings a year as any one child may need.	
Reg. Sec. 300.130 Individualized education programs. (a) Each State plan must include information that shows that each public agency in the State maintains records of the IEP for each child with disabilities, and each public agency establishes, reviews, and revises each program as provided in Regs. Secs. 300.340-300.350. (b) Each State plan must include____ (1) A copy of each State statute, policy, and standard that regulates the manner in which IEPs are developed, implemented, reviewed, and revised; and (2) The procedures that the SEA follows in monitoring and evaluating those programs.	**Section 612(a) State Eligibility Individualized Education Program** (4) An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).
	Section 614(d)(3)(B) Development of IEP (A) In General- In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider-- (i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and (ii) the results of the initial evaluation or most recent evaluation of the child.
	Section 614(d)(3)(B) Consideration of Special Factors The IEP Team shall-- (i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior; (ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to

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	the child's IEP; (iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; (iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (v) consider whether the child requires assistive technology devices and services.
	Section 614(d)(4) Requirement With Respect to Regular Education Teacher (B) Teacher- The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.
Reg. Sec. 300.347 Agency responsibilities for transition services (a) If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student with a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP. (b) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to	**Section 614(d) Failure to Meet Transition Objectives** (5) If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

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provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.	
Reg. Sec. 300.348 Private school placements by public agencies (a) Developing individualized education programs. (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with Reg. Sec. 300.343. (2) The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls. (3) [Reserved] (b) Reviewing and revising individualized education programs. (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. (2) If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative; (i) Are involved in any decision about the child's IEP; and (ii) Agree to any proposed changes in the program before those changes are implemented. (c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.	**Section 612(a)10)(B) Children Placed in, or Referred to Private Schools by Public Agencies** (i) In General--Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State. (ii) Standards--In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

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Reg. Sec. 300.349 Children with disabilities in parochial or other private schools. If a child with a disability is enrolled in a parochial or other private school and receives special education or related services from a public agency, the public agency shall— (a) Initiate and conduct meetings to develop, review, and revise an IEP for the child, in accordance with Reg. Sec. 300.343; and (b) Ensure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.	
Reg. Sec. 300.403 Placement of children by parents. (a) If a child with a disability has FAPE available and the parents choose to place the child in a private school or facility, the public agency is not required by this part to pay for the child's education at the private school or facility. However, the public agency shall make services available to the child as provided under Regs. Secs. 300.450-300.452. b) Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures of Regs. Secs. 300.500-300.515.	**Section 612(a)(10)(C) Payment for Education of Children Enrolled in Private Schools Without Consent or Referral by the Public Agency.** (i) In General--Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility. (ii) Reimbursement for Private School Placement--If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment. (iii) Limitation on Reimbursement--The cost of reimbursement described in clause (ii) may be reduced or denied-

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	(I) if-- (aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or (bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa); (II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or (III) upon a judicial finding of unreasonableness with respect to actions taken by the parents. (iv) Exception- Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if-- (I) the parent is illiterate and cannot write in English; (II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child; (III) the school prevented the parent from providing such notice; or (IV) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I).

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Reg. Sec. 300.341 State educational agency responsibility. (a) Public agencies. The SEA shall ensure that each public agency develops and implements an IEP for each of its children with disabilities. (b) Private schools and facilities. The SEA shall ensure that an IEP is developed and implemented for each child with a disability who (1) Is placed in or referred to a private school or facility by a public agency; or (2) Is enrolled in a parochial school or other private school and receives special education or related services from a public agency. Note: This section applies to all public agencies, including other State agencies (e.g., departments of mental health and welfare) that provide special education to a child with a disability either directly, by contract or through other arrangements. Thus, if a State welfare agency contracts with a private school or facility to provide special education to a child with a disability, that agency would be responsible for ensuring that an IEP is developed for the child. **Appendix C - Questions and Answers** 1. Who is responsible for ensuring the development of IEPs for children with disabilities served by a public agency other than an LEA? a. SEA polices or Interagency Agreements. The SEA, through its written policies or agreements, must ensure that IEPs are properly written and implemented for all children with disabilities in the State. This applies to each interagency situation that exists in the State, including any of the following: (1) When an LEA initiates the placement of a child in a school or program operated by another State agency (see "LEA-Initiated Placements" in paragraph -- "b.", below); (2) when a State or local agency other than the SEA or LEA places	**Section 614(d)(6) Children With Disabilities in Adult Prisons** (A) In General- The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons: (i) The requirements contained in section 612(a)(17) and paragraph (1)(A)(v) of this subsection (relating to participation of children with disabilities in general assessments). (ii) The requirements of subclauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison. (B) Additional Requirement- If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

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a child in a residential facility or other program; (3) when parents initiate placements in public institutions; and (4) when the courts make placements in correctional facilities. Note: This is not an exhaustive list. The SEA'S policies must cover any other interagency situation that is applicable in the State, including placements that are made for both educational and for non-educational purposes. Frequently, more than one agency is involved in developing or implementing an IEP of a child with a disability (e.g., when the LEA remains responsible for the child, even though another public agency provides the special education and related services, or when there are shared cost arrangements). It is important that SEA policies or agreements define the role of each agency involved in the situations described above, in order to resolve any jurisdictional problems that could delay the provision of FAPE to a child with a disability. For example, if a child is placed in a residential facility, any one or all of the following agencies might be involved in the development and/or implementation of the child's IEP: The child's LEA, the SEA, an other State agency, an institution or school under that agency, and the LEA where the institution is located. Note: The SEA must also ensure that any agency involved in the education of a child with a disability is in compliance with the LRE provisions of the Act and regulations, and, specifically, with the requirement that the placement of each child with a disability (1) be determined at least annually, (2) be based on the child's IEP, and (3) be as close as possible to the child's home (Sec. 300.552(a), Placements.) **Appendix C - Questions and Answers** **1. Who is responsible for ensuring the development of IEPs for**	

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children with disabilities served by a public agency other than an LEA? The answer will vary from State to State, depending upon State law, policy, or practice. In each State, however, the SEA is ultimately responsible for ensuring that each agency in the State is in compliance with IEP requirements and the other provisions of the Act and regulations. The SEA must ensure that every child with a disability in the State has FAPE available, regardless of which agency, State or local, is responsible for the child. While the SEA has flexibility in deciding the best means to meet this obligation (e.g., through interagency agreements), there can be no failure to provide FAPE due to jurisdictional dispute among agencies. Note: Section 300.2(b) states that the requirements of the Act and the regulations apply to all political subdivisions of the State that are involved in the education of children with disabilities, including (1) the SEA, (2) LEAs, (3) other State agencies (such as Departments of Mental Health and Welfare, and State schools for students with deafness or students with blindness), and (4) State correctional facilities.	
	Section 614 Construction (e) Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.
	Section 613 Disciplinary Information (j) The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted

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	with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.
	Section 612(a)(22) **Suspension and Expulsion Rates.**— (A) In General--The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities-- (i) among local educational agencies in the State; or (ii) compared to such rates for nondisabled children within such agencies. (B) Review and Revision of Policies--If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its polices, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.
Reg. Sec. 300.513 Child's status during proceedings. (a) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of	**Section 615 Placement in Alternative Educational Setting** (k)(1) Authority of School Personnel (A) School personnel under this section may order a change in the placement of a child with a disability--

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the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement. (b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings. Note: Section 300.513 does not permit a child's placement to be changed during a complaint proceeding, unless the parents and agency agree otherwise. While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.	(i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and (ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if-- (I) the child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or (II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency. (B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A)-- (i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or (ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior. (2) Authority of Hearing Officer--A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer-- (A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others; (B) considers the appropriateness of the child's current

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	placement; (C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and (D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B). (3) Determination of Setting- (A) In General- The alternative educational setting described in paragraph (1)(A)(ii) shall be determined by the IEP Team. (B) Additional Requirements--Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall-- (i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and (ii) include services and modifications designed to address the behavior described in paragraph (1) or paragraph (2) so that it does not recur.
	(4) Manifestation Determination Review- (A) In General--If a disciplinary action is contemplated as described in paragraph (1) or paragraph (2) for a behavior of a child with a disability described in either of those paragraphs, or if a disciplinary action involving a change of placement for more than 10 days is contemplated for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the local educational agency that applies to all children-- (i) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and

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	of all procedural safeguards accorded under this section; and (ii) immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action. (B) Individuals to Carry Out Review- A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel. (C) Conduct of Review--In carrying out a review described in subparagraph (A), the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team-- (i) first considers, in terms of the behavior subject to disciplinary action, all relevant information, including-- (I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the child; (II) observations of the child; and (III) the child's IEP and placement; and (ii) then determines that-- (I) in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement; (II) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and (III) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

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	(5) Determination that Behavior was not Manifestation of Disability-- (A) In General- If the result of the review described in paragraph (4) is a determination, consistent with paragraph (4)(C), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in section 612(a)(1). (B) Additional Requirement- If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. (6) Parent Appeal (A) In General-- (i) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing. (ii) The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by a parent. (B) Review of Decision-- (i) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability consistent with the requirements of paragraph (4)(C). (ii) In reviewing a decision under paragraph (1)(A)(ii) to place the child in an interim alternative educational setting, the hearing

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	officer shall apply the standards set out in paragraph (2). (7) Placement During Appeals-- (A) In General- When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(A)(ii) or paragraph (2) to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(A)(ii) or paragraph (2), whichever occurs first, unless the parent and the State or local educational agency agree otherwise. (B) Current Placement--If a child is placed in an interim alternative educational setting pursuant to paragraph (1)(A)(ii) or paragraph (2) and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in subparagraph (C). C) Expedited Hearing-- (i) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the local educational agency may request an expedited hearing. (ii) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards set out in paragraph (2).

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	Section 613(f)(2) Coordinated Services System (B) Service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C and with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation, title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income).
	Section 613(g) School-Based Improvement Plan-- (3) Plan Requirements--A school-based improvement plan described in paragraph (1) shall-- (D) ensure that all children with disabilities receive the services described in the individualized education programs of such children.
	Section 673(b) Low-Incidence Disabilities; Authorized Activities-- (1) In General- In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities. (2) Authorized Activities- Activities that may be carried out under this subsection include activities such as the following: (A) Preparing persons who-- (i) have prior training in educational and other related service fields; and (ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with disabilities to achieve the outcomes described in their

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	individualized family service plans described in section 636.
	Section 682 Parent Training and Information Centers (a) Program Authorized--The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section. (b) Required Activities-- Each parent training and information center that receives assistance under this section shall-- (4) assist parents to-- (C) participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;
Section 300.515. Attorneys' fees. Each public agency shall inform parents that in any action or proceeding under 615 of the Act, courts may award parents reasonable attorneys' fees under the circumstances described in section 615(e)(4) of the Act.	**Section 615(i)(3)(D) Award of Attorneys' Fees** (ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e) that is conducted prior to the filing of a complaint under subsection (b)(6) or (k) of this section.
	Section 607 Requirements for Prescribing Regulations (b) The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such

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	regulation reflects the clear and unequivocal intent of the Congress in legislation. (c) Policy Letters and Statements- The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this part without following the requirements of section 553 of title 5, United States Code.
	Title II Miscellaneous Provisions **Section 201(a)(2) - Effective Dates Individualized Education Programs and Comprehensive Systems of Personnel Development** (C) Section 618 of the Individuals With Disabilities education Act, as in effect on the day before the date of the enactment of this Act, and the provisions of parts A and B of the Individuals With Disabilities Education Act relating to individualized education programs and the State's comprehensive system of personnel development, as so in effect, shall remain in effect until July l, 1998.